

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

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| In the Matter of |) | |
| |) | |
| MARK AUSTEIN, M.D. |) | FINDINGS OF FACT, |
| |) | CONCLUSIONS OF LAW |
| Holder of License No. 14196 |) | AND ORDER FOR |
| For the Practice of Medicine |) | REACTIVATION AND |
| In the State of Arizona. |) | PROBATION |
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MARK AUSTEIN, M.D. appeared before the Board of Medical Examiners ("Board") on April 8, 1995. Dr. AUSTEIN appeared before the Board and after evaluating the information presented in this case, the Board adopted the following Findings of Fact, Conclusions of Law and Order of Probation:

FINDINGS OF FACT

1. The Board of Medical Examiners of the State of Arizona is the duly constituted authority for the regulation and control of the practice of medicine in the State of Arizona.
2. MARK AUSTEIN, M.D., is the holder of License No. 14196 for the practice of medicine in the State of Arizona.
3. On June 24, 1993, the Board was notified in writing that Dr. AUSTEIN was unable to practice medicine because of a substance abuse problem.
4. On July 2, 1993, Dr. AUSTEIN was admitted to Chandler Valley Hope for treatment of chemical dependence. On July 29, 1993, Dr. AUSTEIN left Valley Hope against clinical advice and without approval after he was advised of a treatment recommendation that he go from Valley Hope directly to the Talbott Treatment Center in Atlanta, Georgia. On July 30, 1993, when Dr. AUSTEIN did not return to Valley Hope, he was discharged against clinical advice and without approval.

5. On August 8-10, 1993, Dr. AUSTEIN was evaluated by Lutheran General Behavioral Health in Woodridge, Illinois.

6. On August 26, 1993, Dr. AUSTEIN requested that his license be placed on inactive status. By Board Order dated October 15, 1993, his license was placed on inactive status with cause.

7. On August 22, 1994, Dr. AUSTEIN was admitted to the Talbott-Marsh Recovery Campus program in Atlanta, Georgia for treatment of chemical dependency. He completed treatment and was discharged on January 7, 1995.

8. Dr. AUSTEIN has not practiced medicine in the last twenty (20) months.

CONCLUSIONS OF LAW

1. The Board of Medical Examiners of the State of Arizona possesses jurisdiction over the subject matter hereof and over MARK AUSTEIN, M.D.

2. The conduct and circumstances described above constitute unprofessional conduct pursuant to A.R.S. §32-1401(24)(f) (habitual intemperance in the use of alcohol or habitual substance abuse).

ORDER

Based upon the Findings of Fact and Conclusions of Law set forth above, IT IS ORDERED as follows:

A. Medical License No. 14196 held by MARK AUSTEIN, M.D. is hereby reactivated.

B. Based upon the foregoing Findings of Fact and Conclusions of Law set forth above, IT IS ORDERED that MARK AUSTEIN, M.D. is hereby placed on probation for a period of five (5) years on the following terms and conditions:

1. MARK AUSTEIN, M.D. will immediately participate in the Board approved and sponsored monitored aftercare treatment program. Dr. AUSTEIN, shall instruct his therapist from the program to release to the Board of Medical Examiners, upon its request, any and all records relating to his treatment and to submit quarterly reports to

the Board of Medical Examiners regarding his diagnosis, prognosis and recommendation for the continuing care, treatment and supervision of Dr. AUSTEIN, said reports to be submitted on or before the 15th day of March, May, September and December of each year, commencing on or before the 15th day of May, 1995.

2. Dr. AUSTEIN has previously participated in ninety (90) 12-step meetings in ninety (90) days.

3. Dr. AUSTEIN shall participate in a 12-step recovery program appropriate for substance abuse as determined by his treating therapist, and attend a minimum of three (3) weekly meetings.

4. Dr. AUSTEIN shall obtain a sole treating physician who shall be approved by the Board. Dr. AUSTEIN shall advise his treating physician of his rehabilitation efforts and provide a copy of this document to his approved treating physician. Dr. AUSTEIN shall further advise any health care practitioner providing medical care and treatment of his chemical misuse problem.

5. Dr. AUSTEIN shall abstain completely from the consumption of alcohol and illegal drugs or substances.

6. Dr. AUSTEIN shall take no drugs or medications whatever (except for plain aspirin and/or plain acetaminophen), whether controlled substances, prescription-only drugs or over-the-counter preparations, unless such drug or medication was prescribed for him by his approved treating physician.

7. Dr. AUSTEIN shall comply immediately with requests from the Board approved and sponsored monitored aftercare treatment program director, or their agents or designees, including but not limited to his therapist, to submit to witnessed random biological fluid collection, and authorizes any person or organization conducting tests on these collected samples to provide testing results to the Board and the Board approved and sponsored monitored aftercare treatment program director.

8. Dr. AUSTEIN shall maintain a log of any and all medications whatever (including plain aspirin and/or plain acetaminophen), whether controlled substances, prescription-only drugs or over-the-counter preparations prescribed for him by his treating physician and shall make such log available to the Board, its agents or designees upon request. Such log, at a minimum, shall include the following:

- (a) The medication taken;
- (b) The date and time the medication was taken;
- (c) The name of the prescribing physician;
- (d) The reason for the medication.

9. Dr. AUSTEIN agrees to pay all charges from the Board of Medical Examiners, or its designee (including, but not limited to, the Board approved and sponsored monitored aftercare treatment program) for conducting biological fluid testing, as well as charges for group therapy sessions conducted by the Board approved and sponsored monitored aftercare treatment program.

10. Dr. AUSTEIN shall submit to mental, physical or medical competency examinations, or any combination thereof, at such times and under such conditions as directed by the Board to assist the Board in monitoring his ability to safely engage in the practice of medicine, or his compliance with the terms of this Order.

11. Dr. AUSTEIN shall submit to any therapy ordered by the Board, or recommended by his therapist from the Board approved and sponsored monitored aftercare treatment program.

12. Dr. AUSTEIN shall obey all federal, state and local laws, and all rules governing the practice of medicine in the State of Arizona.

13. Dr. AUSTEIN shall appear in person before the Board for interviews upon request, at various intervals and with reasonable notice. He shall immediately advise the Board of any change in his office or home addresses, and shall further immediately

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In the Matter of)

MARK AUSTEIN, M.D.)

Holder of License No. 14196)
For the Practice of Medicine)
In the State of Arizona.)

Case No. 6170

TERMINATION ORDER

IT IS HEREBY ORDERED that the Board's Order of Probation dated April 8, 1995 is terminated.

DATED this 28th day of April 2000.



BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

By

Tom Adams
Claudia Foutz
Executive Director
Tom Adams
Assistant Director, Regulation

EXECUTED COPY of the foregoing Order mailed
by Certified Mail this 1st day of
May 2000 to:

MARK AUSTEIN, M.D.
(Address of Record)

Kathleen Miller

Coordinator, Monitored Aftercare Program